



UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Tomokatsu Kishi, et al.
Application No. 09/440,704
Filed: November 16, 1999
For: PLASMA DISPLAY DRIVING METHOD
AND APPARATUS

DECISION ON PETITION TO
WITHDRAW HOLDING
OF ABANDONMENT

This is in response to the petition filed September 19, 2002, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely manner to the non-Final Office Action mailed on August 28, 2001 and remailed October 22, 2001 which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on August 27, 2002.

Petitioner asserts that the non-Final Office Action dated October 22, 2001 was not received. In the absence of any irregularity in the mailing of the non-Final Office Action, there is a strong presumption that the non-Final Office Action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-Final Office Action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

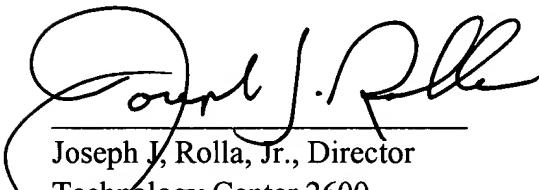
A review of the record indicates that the non-Final Office Action was mailed to the practitioner of record at the correspondence address of record at the time of mailing. However, the zip-code for this address differs from that of record.

In support of the petition, the petitioner has submitted a copy of the docket records where the non-received non-Final Office Action would have been entered had it been received and a statement from the practitioner, stating that a search of the office's file jacket and docket records indicates that the Office Action was not received.

Petitioner has made a sufficient showing of non-receipt of the non-Final Office Action based upon the docket records submitted and upon the statement from the practitioner. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

Due to the time lapse between the mailing of the Office action and the mailing date of this decision, the application file is being forwarded to the examiner for updating the search and other appropriate action as deemed necessary. From there the file will be forwarded to the Technology Center's support staff for mailing a new Office action. The time period for response will be set to run from the date the new office action is mailed.



Joseph J. Rolla, Jr., Director
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Communications